

## ***8 Official Opinions of the Compliance Board 71 (2012)***

- ◆ Minutes
    - ◇ Generally
      - ◆ Preparation within reasonable time, required
  - ◆ Compliance Board – Authority and Procedures
    - ◇ Opinions
      - ◆ Reconsideration of prior opinion – standards
  - ◆ Compliance Board – Authority and Procedures
    - ◇ Jurisdictional limits
      - ◆ Public body’s distribution of opinions to members – not governed by Act
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July 3, 2012

### **Re: Carroll County Utilities Advisory Council (Michele Fluss)**

We have considered the complaint and motion for reconsideration of Michele J. Fluss (“Complainant”) concerning the timeliness of the Carroll County Utilities Advisory Council’s adoption of the minutes of its meetings. We shall also address the e-mail messages she has sent to our staff on the subject of our procedures for transmitting opinions to public bodies.

Complainant complains that the Utilities Advisory Council (“UAC”) did not take the advice we gave in 8 *OMBC Opinions* 32 (2012), which also pertained to a complaint by her about this public body. There, we explained that a public body which meets infrequently should adopt minutes by some means other than a public meeting so as to approve them promptly. In response, UAC’s counsel states that it is now changing its procedures and has both approved and posted the minutes about which Complainant complained. In light of this tangible, albeit belated, result, we need not address the matter further. For the same reason, we deny Complainant’s request that we reconsider 8 *OMBC Opinions* 32 and then

change our recitation of certain dates.<sup>1</sup> UAC's counsel has made clear that UAC will now adhere to the principles set forth in that opinion, and the dates of the adoption of minutes of 2011 meetings are now moot.

Complainant is troubled that two members of the UAC did not themselves receive copies of either her complaint or our opinion in 8 *OMBC Opinions* 32 (2012), which we issued on February 10, 2012, and that the Council did not discuss her December 5, 2011 complaint at its January, 2012 meeting. Counsel has stated that the subject of UAC's procedures for adopting minutes in a timely fashion is on the agenda of the April 26, 2012 meeting, which will be the UAC's first meeting since the issuance of the opinion. It thus appears that Complainant's concern has now been addressed. Of course, the members of a public body should be made aware of our resolution of a complaint that they have violated the Act, not only because compliance with the Act fulfills the Act's broad policy goal of transparency, but also because their unawareness of the Act's requirements exposes their actions to the risk of a challenge under §10-510 of the State Government Article. We also agree that staff assigned to a public body should forward to at least its chair any Open Meetings Act complaint that we have sent to its address.<sup>2</sup> We do not know whether that occurred here, as we do not know whether the two members with whom Complainant spoke included the Council's chair. However, the Council's earlier attention to our first opinion would have made this one unnecessary.

*Open Meetings Compliance Board*

*Elizabeth L. Nilson, Esquire*

*Courtney J. McKeldin*

*Julio Morales, Esquire*

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<sup>1</sup> The Act does not provide for requests for reconsideration. We grant them rarely, see 3 *OMCB Opinions* 255, 256 (2003), and did not require the Council to respond to this one.

<sup>2</sup> As a practical matter, staff's distribution of a complaint might vary with the size of the document and the membership of the public body. When a complaint is accompanied by extensive attachments, as was the case with Complainant's 85-page December 5, 2011 submission, or when a public body is large, distribution might understandably be limited.